

## **PAYMENT OF COURT-ASSIGNED COUNSEL**

### **COMPENSATION**

**Fee:** Local Rule 46(d) provides for payment of a \$750 fee plus expenses from the Attorney Admission Fund in court-assigned cases. Counsel may seek compensation in excess of \$750 by submitting a memorandum outlining the extended or complex nature of the case.

**Hourly Rates:** A \$127 hourly rate applies for work done on or after January 1, 2015 (\$126 per hour for work between March 1, 2014, and December 31, 2014, and \$110 per hour for work between September 1, 2013, and February 28, 2014).

**Itemization of Attorney Time:** Attorney time must be itemized on the court's [assigned counsel worksheets](#) or like form, showing date, description of services, and amount of time in hours and tenths of an hour.

**What Time May Be Claimed:** Counsel may claim in this court all time spent representing the client on appeal, from filing the notice of appeal through final disposition of the appeal in this court.

**Whose Time May Be Claimed:** Assigned counsel may claim compensation for their own time as well as for the time of a partner or associate in their firm. If assigned counsel has obtained prior authorization from the court for assistance from an attorney outside counsel's firm and the attorney authorized by the court has entered an appearance as co-counsel, assigned counsel may also claim compensation for that attorney's time. An associated attorney's hours should be included on assigned counsel's voucher, with the associated attorney's time and services reflected on a separate worksheet. The limits on compensation apply to all compensation claimed.

### **EXPENSES**

**Travel Expenses:** Counsel may claim reimbursement at coach rates for plane or train travel to present oral argument by itemizing the expense on the expense worksheet and attaching a copy of the ticket. Automobile mileage expenses may be claimed by itemizing on the expense worksheet the date, destination, and number of miles traveled (current mileage reimbursement rates may be found at [www.gsa.gov/mileage](http://www.gsa.gov/mileage), and archived mileage reimbursement rates may be found at [www.gsa.gov/portal/content/103969](http://www.gsa.gov/portal/content/103969)).

Assigned counsel may obtain reimbursement for reasonably incurred travel expenses. One night's lodging and meals while on travel will be reimbursed at an actual expense rate not in excess of \$260 for travel to Richmond (derived from federal per diem limits for lodging at \$113 and meals at \$66 per day, plus hotel taxes at \$15). Subsistence expenses for travel to present argument at locations other than Richmond will likewise be reimbursed within federal per diem limitations.

**All** travel expenses (lodging, meals, parking, ground transportation) must be supported by receipts. Receipts for meals and lodging must be sufficiently detailed to establish that reimbursement is not being sought for alcoholic beverages, safe deposit boxes, in-room movies or other expenses which are not reimbursable. For this reason, the **hotel or restaurant bill**, rather than a credit card receipt must be submitted.

Reimbursement for significant travel other than to the court will be made only if counsel obtained leave of court before incurring the expense, upon a showing of specific need for the travel and the expenses to be incurred.

**Record and Copying Expenses:** Counsel's assignment to this case as a member of this court's CJA/Discretionary Panels authorizes counsel to obtain and use a fee exempt CJA Panel Attorney account to provide representation in this case. Counsel should register for a fee exempt PACER account for use in this case (and any CJA case) at [www.pacer.gov](http://www.pacer.gov). The district court's PACER docket and electronic documents are accessible through a link to the district court docket from the appellate docket. The "Create appendix" option for running a PACER docket report enables counsel to select which documents to include in the appendix.

For copies of documents made in-house, counsel may obtain reimbursement of actual expenses, not to exceed \$.15 per copy, by itemizing on the assigned counsel worksheet the dates, number of copies, and cost per page. For photocopying of briefs and appendices by commercial printers, reimbursement for actual expenses not to exceed \$.35 per sheet may be obtained by submitting a receipt detailing what was copied, number of copies, and cost per copy. Copy costs for CD's and DVD's may not exceed \$1.00 per copy.

Double-sided copying must be used for appendices prepared by commercial printers. No appendix in a court-assigned case may exceed 250 sheets of double-sided copying (500 numbered pages) absent advance permission from the court. Unless counsel has obtained leave to file an oversize appendix, reimbursement will be limited to 250 sheets. In addition, counsel may be required to bear any additional costs associated with resubmitting corrected briefs and appendices in cases where counsel did not follow the court's rules in the initial submission.

If a commercial printer prepares the briefs and appendix, a separate application may be made on a Court-Assigned Printer Voucher for direct payment of printing bills, in excess of \$100, to the printer. Petitions for rehearing must be copied in-house. Because Rule 14(l)(i) of the Supreme Court Rules requires only a limited appendix to accompany a petition for writ of certiorari, copying costs for petitions for writs of certiorari shall not exceed \$500 absent advance permission of the court of appeals.

**Long Distance Telephone Calls and Facsimile Charges:** Counsel may claim reimbursement for long distance phone calls and facsimile charges by itemizing on the expense worksheet the date and amount of the long distance charge. If the amount exceeds \$50, a copy of the bill is required. Any other charge associated with use of counsel's phone or fax equipment is considered non-reimbursable office overhead.

**Postage and Courier Charges:** Delivery charges may be claimed by itemizing on the expense worksheet the date, description of expense, and cost. Any expense in excess of \$50 must be supported by a detailed receipt. Briefs and appendices are deemed filed upon first-class mailing or dispatch to a commercial courier for delivery within three days, and counsel should minimize the use of special services such as same day or overnight delivery.

**Computer Assisted Legal Research:** The cost of use by appointed counsel of computer assisted legal research equipment may be allowed as a reimbursable expense, provided that the amount claimed is reasonable. Claims for reimbursement for computer assisted legal research must be supported with a copy of the bill and receipt for the use of the legal research services or an explanation of the precise basis of the charge (e.g., indicating the extent to which it was

derived by proration of monthly charges or by charges identifiable to the specific research). If the amount claimed is in excess of \$500 or if it includes costs for downloading or printing, counsel should include a brief justification.

**Computer Assisted Legal Research Services:** Payment for research services performed by employees of a commercial legal research firm is reimbursable upon a showing that the total amount charged for the services is reasonable. If the total cost of services from all providers will exceed \$800 for the appeal, advance authorization is required.

**Paralegal or Law Clerk Services:** Claims for reimbursement for compensation paid to a paralegal or law clerk must be supported with a statement of the issues researched. The hourly rate for a paralegals is \$35, and the hourly rate for law clerks is \$25. If the total cost of services from all providers will exceed \$800 for the appeal, advance authorization is required.

## **CLAIM PROCEDURE**

**When to Apply:** The court will send counsel an assigned counsel voucher along with instructions when judgment is entered. The completed voucher must be filed within 60 days of entry of judgment or denial of a petition for rehearing, whichever is later.

**What to Submit:** Counsel must submit the voucher, the worksheets for services and expenses, and all receipts. Receipts are required for all travel and lodging expenses, non-office copying services, and any other expense in excess of \$50. If counsel is claiming compensation in excess of the limits, counsel must attach a memorandum establishing that the case was unusually extended or complex and that excess payment is necessary for fair compensation.

**Public Disclosure:** Vouchers filed by assigned counsel are subject to public disclosure unless disclosure should be limited based upon: (1) protection of any person's Fifth Amendment right against self-incrimination; (2) protection of the defendant's Sixth Amendment right to effective assistance of counsel; (3) the defendant's attorney-client privilege; (4) the work-product privilege of counsel; (5) the safety of any person; or (6) any other interest that justice may require. If counsel wishes to request redaction or non-disclosure of any portion of the voucher based upon one of these interests, counsel should seek such relief by motion at the time the voucher is filed. Absent such a motion, the voucher will be made available to the public upon request.

**Questions:** Any questions regarding compensation, reimbursable expenses, or record keeping should be addressed to Patty Layne in the clerk's office at 804-916-2727.

## **WORKSHEETS**

[Assigned Counsel Worksheets](#)